

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN ROBERT DEMOS, JR,

Plaintiff,

v.

JAY R. INSLEE,

Defendant.

CASE NO. C23-1171 BHS

ORDER

THIS MATTER is before the Court on Magistrate Judge Michelle L. Peterson's Report and Recommendation (R&R), Dkt. 2, recommending that the Court deny pro se plaintiff John Robert Demos's application to proceed *in forma pauperis*, dismiss this case without prejudice, and deny as moot his motion for appointment of counsel.

The R&R points out that Demos is subject to a Bar Order in this District (and others), that he has already exceeded his annual limit of three *in forma pauperis* applications, and that his proposed class action complaint's general allegations and grievances about uncomfortable conditions at the Washington State Penitentiary in Walla Walla do not plausibly allege that he personally faces imminent harm.

1 A district judge must determine de novo any part of the magistrate judge's
2 disposition to which a party has properly objected. The district judge may accept, reject,
3 or modify the recommended disposition; receive further evidence; or return the matter to
4 the magistrate judge with instructions. Fed. R. Civ. P. 72(b)(3). A proper objection
5 requires specific written objections to the findings and recommendations in the R&R.
6 *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc).

7 Nevertheless, objections to an R&R are not an appropriate vehicle to rehash or re-
8 litigate the points considered and resolved by the magistrate judge. *See, e.g., El Papel*
9 *LLC v. Inslee*, No. 20-cv-01323 RAJ-JRC, 2021 WL 71678, at *2 (W.D. Wash. Jan. 8,
10 2021) ("Because the Court finds that nearly all objections are merely a rehash of
11 arguments already raised and decided upon by the Magistrate Judge, the Court will not
12 address each objection here."); *Aslanyan v. Herzog*, No. 14-cv-0511 JLR, 2014 WL
13 7272437, at *1 (W.D. Wash. Dec. 17, 2014) (rejecting a challenge to a magistrate judge's
14 report and recommendation when "all of [plaintiff's] objections simply rehash arguments
15 contained in his amended opening memorandum or in his reply memorandum").

16 As courts in other districts have recognized and explained, such re-litigation is not
17 an efficient use of judicial resources. There is no benefit to the judiciary "if the district
18 court[] is required to review the entire matter *de novo* because the objecting party merely
19 repeats the arguments rejected by the magistrate. In such situations, this Court follows
20 other courts that have overruled the objections without analysis." *Hagberg v. Astrue*, No.
21 CV-09-01-BLG-RFC-CSO, 2009 WL 3386595, at *1 (D. Mont. Oct. 14, 2009). In short,
22 an objection to a magistrate judge's findings and recommendations "is not a vehicle for

1 the losing party to relitigate its case.” *Id.*; see also *Conner v. Kirkegard*, No. CV 15-81-
 2 H-DLC-JTJ, 2018 WL 830142, at *1 (D. Mont. Feb. 12, 2018); *Fix v. Hartford Life &*
 3 *Accident Ins. Co.*, CV 16-41-M-DLC-JCL, 2017 WL 2721168, at *1 (D. Mont. June 23,
 4 2017) (collecting cases); *Eagleman v. Shinn*, No. CV-18-2708-PHX-RM (DTF), 2019
 5 WL 7019414, at *4 (D. Ariz. Dec. 20, 2019) (“[O]bjections that merely repeat or rehash
 6 claims asserted in the Petition, which the magistrate judge has already addressed in the
 7 R&R, are not sufficient under Fed. R. Civ. P. 72.”).

8 Demos’s 38 page handwritten objections are not sufficient under this standard. He
 9 largely reiterates that conditions are difficult in the prison, for all prisoners. Not only is
 10 this not enough to overcome the Bar Order to sue on his own behalf, but Demos cannot
 11 represent his fellow prisoners because he is not an attorney. Representing another person
 12 or entity in court is the practice of law. To practice law, one must be an attorney. RCW
 13 2.48.170. There is a pro se exception to this general rule, under which a person “‘may
 14 appear and act in any court as his own attorney without threat of sanction for
 15 unauthorized practice.’” *Cottringer v. State, Dep’t of Employment Sec.*, 162 Wn. App.
 16 782, 787, (2011) (quoting *Wash. State Bar Ass’n v. Great W. Union Fed. Sav. & Loan*
 17 *Ass’n*, 91 Wn.2d 48, 56 (1978)).

18 The pro se exception is, however, extremely limited and applies “‘only if the
 19 layperson is acting solely on his own behalf’” with respect to his own legal rights and
 20 obligations. *Cottringer*, 162 Wn. App. at 787–88 (quoting *Wash. State Bar Ass’n*, 91
 21 Wn.2d at 57). Although a non-attorney may appear *in propria persona* on his own behalf,
 22 that privilege is personal to him. *McShane v. United States*, 366 F.2d 286, 288 (9th Cir.

1 1966). He has no authority to appear as an attorney for anyone other than himself. *Russell*
2 *v. United States*, 308 F.2d 78, 79 (9th Cir. 1962); *Collins v. O'Brien*, 208 F.2d 44, 45
3 (D.C. Cir. 1953), *cert. denied*, 347 U.S. 944 (1954).

4 Demos's objections are **OVERRULED**. The R&R is **ADOPTED**. Demos's
5 application to proceed *in forma pauperis* is **DENIED**, and the case is **DISMISSED**
6 **without prejudice** and **without leave to amend**. The motion for appointment of counsel
7 is **DENIED as moot**.

8 The Clerk shall enter a **JUDGMENT** and close the case.

9 **IT IS SO ORDERED.**

10 Dated this 14th day of September, 2023.

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14 BENJAMIN H. SETTLE
15 United States District Judge
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